



**SPECIALIST IN FAMILY LAW
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CHILD SUPPORT –A MINEFIELD AREA

Upon the breakdown of your marriage or relationship, one of the first concerns is that of financial support, not just for you but for the children. For the mother, concern is usually whether she will have sufficient income from the father of the children to support them; for the father the concern is as to how he will survive when he has to pay Child Support from a limited income.



Enforcing Child Support can also be difficult, particularly where the paying parent is self-employed and attempts may be made to try and hide their true income; they may be paid in cash or are able to disguise their real income. That can be particularly frustrating for the parent who is trying to prove that the other parent's lifestyle does not match their disclosed income.

At the present time the Courts have no jurisdiction to make maintenance orders for the support of children unless the maintenance is agreed between the parties themselves. If agreement can be reached it can form part of a consent order within divorce proceedings put before the Court. The parties themselves (whether married or not) may simply agree voluntary maintenance for the children without any formal orders. Be aware however that even if a consent order is agreed and made by the Court either party can apply to the Child Support Agency after the expiration of 12 months for the matter to be dealt with by the Child Support Agency.

If agreement is not reached by the parties themselves then application can be made to the Child Support Agency and they alone will then have the jurisdiction to deal with the matter. There are certain circumstances when an application can be made to the Court for a "Top Up" Order once a Child Support assessment has been made but those are fairly few and far between, although support for a child in private continuing education can still be sought from the Court and there are some other areas where an application can be made to the Court, but generally without agreement this is not possible.



As one can imagine, the Child Support Agency are inundated with applications, and it can take some time for their process to be completed. This in itself can be frustrating for the parent who desperately needs financial support for the children or who feels

that the other parent is deliberately delaying the provision of information to the Agency and this of course causes financial hardship and further stress.

BOX 1

The Child Support System following the Reforms

The new child support scheme is based on the net weekly income of the non-resident parent and includes:

- a simpler system of rates for working out how much child maintenance should be paid;
- a child maintenance premium. This allows a person with care who is getting Income Support or income-based Jobseeker's Allowance to keep up to £10 a week of the child maintenance paid as well as their benefit;
- lower rates of child maintenance for non-resident parents who have children living with them, including any stepchildren; and
- new powers for the Child Support Agency to make sure that the Agency can work out child maintenance quickly and collect it successfully.

Child maintenance is calculated by applying one of the following four rates to the non-resident parent's net weekly income:

- basic rate when net weekly income is £200 or more. The basic rate is based on percentage rates of the net weekly income. The percentage rates are set down by law. They are:
 - 15 per cent if there is one child;
 - 20 per cent if there are two children; and
 - 25 per cent if there are three or more children.
- reduced rate when net weekly income is more than £100 but less than £200. The reduced rate is £5 a week for the first £100 of the net weekly income, plus a percentage of the net weekly income over £100.
- flat rate when net weekly income is between £5 and £100 inclusive, or the non-resident parent is in receipt of benefit. The flat rate is £5 a week for any number of children.
- nil rate when net weekly income is less than £5, or, for example, the non-resident parent is a student or a prisoner.

Once a Child Support Agency calculation/assessment is made, and if either parent is dissatisfied with it, challenges can be made against the assessment for a review of any decision made. You should also know that any future changes in either party's financial circumstances should be notified to the Child Support Agency in order to enable any re-assessment to be carried out.

Parents with financial responsibility for their children often find it difficult to enforce payments through the Child Support Agency and the Agency does have discretion insofar as that enforcement is concerned.

Even where agreement has been reached between the parties for the provision of Child Support, the Agency will only enforce the agreement if the same is registered with the

Agency in writing, signed by the parties and approved by the Agency. What also has to be remembered is that any lump sum agreement or payment in kind cannot be enforced by the Agency

For the parent who is owed a substantial amount of Child Support it is particularly frustrating when they are struggling to make ends meet and yet they see the other parent living a lifestyle which is not conducive to their stated income. Help is at hand and you should seek advice about any situation that involves the Child Support Agency.

With our help you can ensure that you have all the information at your fingertips and are able to access the help and guidance which you need, be you the parent trying to enforce Child Support or the parent challenging the assessment made.

For further information please contact Tracy Lowe at Lowe's Solicitors.



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